

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**RAMONE A. KENAN,**

**Petitioner,**

**v.**

**Civil Action No. 2:05cv76**

**JOYCE FRANCIS, Warden,**

**Respondent.**

**ORDER**

It will be recalled that on June 13, 2005, Magistrate Judge Kaull filed his Report and Recommendation, wherein the Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. On July 7, 2006, Petitioner filed a Notice of Appeal directly to the Fourth Circuit, which appeal was dismissed on November 9, 2006 as not being from a final judgment. No objections to the Magistrate Judge's Report and Recommendation have been filed.

The Petition in this civil action, filed pursuant to 28 U.S.C. §2241, seeks an order compelling the Bureau of Prisons to immediately place Petitioner in a Community Corrections Center, and it requests a \$1,000 release gratuity. Upon review of the record before the Court, it appears that the Petitioner was released from the custody of the Bureau of Prisons on August 11, 2006. Accordingly, Petitioner's request for an order compelling the Bureau of Prisons to immediately place Petitioner in a Community Corrections Center is now moot.

It would also appear that the Petitioner's request for a \$1,000 release gratuity is moot as well. However, to the extent that this request may not be moot, the Court has

carefully reviewed Magistrate Judge Kaull's Report and Recommendation with regard to the issue of the request for a \$1,000 release gratuity. Upon examination of the report from the Magistrate Judge, it appears to the Court that this issue was thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action with regard to the request for a \$1,000 release gratuity. Therefore, it is

**ORDERED** that Magistrate Judge Kaull's Report and Recommendation be, and the same hereby is, accepted in part with regard to the issue of the \$1,000 release gratuity and accordingly, that the Petitioner's request for a \$1,000 release gratuity be, and the same hereby is, **DENIED**. It is further

**ORDERED** that the Petitioner's request for an order compelling the Bureau of Prisons to immediately place Petitioner in a Community Corrections Center be, and the same hereby is, **DENIED** as moot. Accordingly, it is

**ORDERED** that the Petitioner's Petition be, and the same hereby is, **DENIED** and **DISMISSED WITH PREJUDICE**, and **STRICKEN** from the docket of this Court. It is further

**ORDERED** that the Clerk shall enter judgment for the Defendant. It is further

**ORDERED** that, if Petitioner should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the

Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

**ENTER:** January 8<sup>th</sup>, 2007

**Robert E. Maxwell**  
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United States District Judge